

Glen W. Hudson, Carl A. Nyhus, George N. Zlackatt, and J. H. Majors, trading as the Raton Creamery Co., Raton, N. M., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, on or about June 10, 1921, from the State of New Mexico into the State of Colorado, of quantities of butter which was misbranded. A portion of the article was labeled in part: "The Scenic Brand Pure Creamery Butter * * * One Pound Net * * * The Raton Creamery Company Raton, New Mexico." The remainder of the article was labeled in part: "Brookfield Creamery Butter 1 lb. Net Weight * * * The within contents weighed 1 lb. when packed. Owing to natural shrinkage due to evaporation and other causes, contents are not guaranteed to weigh at time of sale the amount marked on the package, but sale is made at packed weight."

Examination of a sample of the Scenic Brand butter by the Bureau of Chemistry of this department showed that the average net weight of the 60 packages examined was 15.02 ounces. Examination of a sample of the Brookfield butter by said bureau showed that the average net weight of the 60 packages examined was 15.11 ounces.

Misbranding of the article was alleged in the information for the reason that the statements, to wit, "One Pound Net" and "1 Lb. Net Weight," borne on the respective cartons containing the article concerning the net weight thereof, were false and misleading in that the said statements represented the net weight of the article to be 1 pound, whereas, in truth and in fact, the net weight of the said article was less than 1 pound. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the stated quantity, to wit, "One Pound Net" or "1 Lb. Net Weight," as the case might be, was incorrect and represented more than the actual contents of the respective packages.

On March 14, 1922, a plea of guilty to the information was entered on behalf of the defendant concern, and the court imposed a fine of \$100 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10758. Adulteration of wheat middlings. U. S. v. 400 Bags of Wheat Middlings. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 15603. I. S. Nos. 9327-t, 9328-t. S. No. E-3644.)

On November 18, 1921, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 400 bags of wheat middlings at Burlington, N. C., alleging that the article had been shipped by the Mayo Milling Co., Inc., Richmond, Va., on September 30, 1921, and transported from the State of Virginia into the State of North Carolina, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Mayo's Bull Middlings With ground recleaned wheat Screenings Mayo Milling Co., Inc. Distributors Richmond, Va."

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of filthy, decomposed, and putrid vegetable substance.

At the June, 1922, term of the said United States District Court the Mayo Milling Co., having filed its bond in the sum of \$1,000, in conformity with section 10 of the act, and having paid all the costs of the proceedings, it was ordered by the court that the product might be released to said claimant.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10759. Misbranding of Aspironal. U. S. v. 19 Dozen Bottles, et al, of Aspironal. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 15647, 15648. S. Nos. E-3672, E-3680.)

On December 9, 1921, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the district aforesaid, holding a district court, libels for the seizure and condemnation of 22½ dozen bottles of Aspironal, remaining unsold at Washington, D. C., alleging that the article was being offered for sale and sold in the District of Columbia, and that 3½ dozen bottles of the said article had been shipped by the Aspironal Laboratories, Inc., Atlanta, Ga., on or about September 12, 1921, and transported from the State of Georgia into the District of Columbia, and charging misbranding in violation of the Food and Drugs Act, as amended.